

YELLOWSTONE COUNTY

VARIANCE APPLICATION

Planning & Community Services Department
4th Floor, Parmly Library
510 North Broadway
Phone: 657-8246 Fax (406) 657-8327
Website: www.co.yellowstone.mt.us

NOTICE TO PETITIONER

The Zoning Coordinator will check the application for completeness after the deadline date. If the application is unacceptable, you will be notified as to what changes need to be made. Incomplete and/or unacceptable applications may delay the review process by four weeks or longer. Make sure your application is totally complete or your request will be delayed.

INSTRUCTIONS

All applications shall be submitted in person at the Planning & Community Services Department, 4th floor of the Parmly Library, 510 North Broadway. The filing fee must accompany the application in order for it to be accepted. No mailed applications will be accepted.

All questions must be answered fully. Please type or print. You may attach further pages if additional space is needed. All plans and other exhibits submitted with this application will be retained as a part of the permanent record.

1. Answer the following questions:
 - A. What reasons prevent you from using this property in conformance with the Zoning Ordinance requirements?
 - B. Why is there a need for the intended use of the property at this location?
2. Prepare a written statement addressed to the Chairperson of the Board of Adjustment. State what is intended to be done with the property, including new construction or change in the use of the property, and why the variance is being sought.
3. Prepare a dimensioned site plan as follows:
 - A. One full sized site plan and one reduced copy of the site plan at 8½"x11" or 11"x17".
 - B. Scale of the full sized site plan shall not be less than 1" = 40'.

4. If applicable, the site plan must include but not be limited to the following:
 - A. North arrow.
 - B. The locations and dimensions of all vehicular points of ingress and egress, drives, alleys, and off-street parking spaces.
 - C. Illustrate lot size showing lot line dimensions.
 - D. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those which will be removed. Please label all information.
 - E. Show setbacks from all property lines for existing and proposed buildings.
 - F. Show the centerline of major and minor arterial streets.
 - G. Illustrate the square footage of existing and proposed buildings and structures.
 - H. Names and locations of adjacent streets, alleys, properties, etc.
 - I. Illustrate the height of any proposed structures.
 - J. Other pertinent features.

** An example of a dimensioned site plan is attached as part of this application packet.
5. Photographs may be submitted and are often helpful. They should be of a size adequate to show the nature of the property.
6. Obtain from the Planning & Community Services Department a three hundred (300) foot radius map showing all property which lies within 300 feet of the exterior boundaries of the subject property.
7. Obtain a certified list of names and addresses of the owners of all property shown within the 300 foot radius on the map as provided by the Planning & Community Services Department. The first step is to take the radius map to the Montana Department of Revenue. The Department of Revenue is located on the 14th Floor of the Wells Fargo building at the southeast corner of North 27th Street and 2nd Avenue North. The Department of Revenue will generate a list of property owners and forward this list to the County Clerk & Recorder who will certify the list and notify you when it is complete. There is a certification charge, payable to the County Clerk & Recorder, of .50 cents per certified name. This list of names and mailing addresses must then be placed on gummed mailing labels and must be typed or neatly printed.
8. A filing fee must accompany all applications for variances. No application will be accepted until the filing fee is paid in full. Checks shall be made payable to the *City of Billings*. **THIS APPLICATION FEE IS NON-REFUNDABLE AND IS NO GUARANTEE THAT THE VARIANCE WILL BE GRANTED.**

RESIDENTIAL: \$358.00

COMMERCIAL: \$440.00

A \$45.00 deposit for posting of zoning request signs is required at the time the application is received. The deposit will be returned when the sign is returned by the applicant or agent at the first public hearing. If the sign is not returned at the first public hearing, the deposit will be retained.

9. A public hearing shall be held for all applications for a variance. As part of the notification procedure, the Zoning Coordinator will notify the property owners on the list prepared by the petitioner for the proposed variance. All persons identified as owners of property within 300 feet of the exterior boundaries of the property proposed for a variance shall be notified by mail not less than fifteen (15) days prior to the date of the public hearing before the County Board of Adjustment. In addition, notification of the proposed variance shall be posted in a conspicuous place on the property, and legal notice shall be published not less than fifteen (15) days prior to the public hearing in a newspaper of general circulation.
10. IMPORTANT NOTICE TO PETITIONER: You will be notified by mail as to the time, date and place of the public hearing on your petition. Attendance at the public hearing is not required, but is strongly recommended, so that you may present your case to the Board.

Procedures and Review Criteria for County Variance requests
Unified Zoning Regulations Section 27-1511 et seq.

SEC. 27-1511. COUNTY VARIANCES.

(a) *Authority.* The county board of adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

(b) *Application procedure.* An application for a variance shall be filed with zoning coordinator under the following conditions:

- (1) The application shall include, but not be limited to, the following:
 - a. A legal and general description of the tract(s) upon which the variance is sought;
 - b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;
 - c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s); and
 - d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.
- (2) The applicant shall present a map showing the location of the property for which the application is submitted, and its relationship to adjoining property;
- (3) The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:

- a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulation;
 - b. The location and size of all existing and proposed buildings, structures and improvements; and
 - c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.
- (4) The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;
- (5) The application must be submitted at least twenty (20) days prior to the date of public hearing;
- (6) The application must be accompanied by the payment of all applicable fees; and
- (7) An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this Section shall have first appeared. However, the county board of adjustment may, by a two-thirds vote of all members, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application for a variance, shall do the following:
 - (1) Consult with other departments of the city and/or county to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;
 - (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;
 - (3) Place notice of the time, date and place for the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;
 - (4) Notify, by mail, the owner(s) of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;
 - (5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date, and place of the public hearing and the proposed variance request at least fifteen (15) days prior to the public hearing. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet, if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;
 - (6) Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and

- (7) Report his/her findings, in writing, to the county board of adjustment, which report shall be a matter of public record.
- (d) *County board of adjustment action.* The county board of adjustment, before it grants a variance shall determine:
 - (1) That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
 - (2) That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;
 - (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;
 - (4) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;
 - (5) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this Resolution/Ordinance. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Resolution/Ordinance;
 - (6) The board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and
 - (7) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this Resolution/Ordinance in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the same district.

(Ord. No. 97-5048, § 13, 12-22-97)

APPLICATION DEADLINES - 2009

COUNTY BOARD OF ADJUSTMENT

Applications for **variances** must be presented to the Planning & Community Services Department by 5:00 p.m. on the dates as set forth below. These deadlines cannot be altered due to state laws concerning public notice. All parties involved will be sent a notice of the time, date, and place of the public hearing.

DEADLINE (1st MONDAY)

DECEMBER 1, 2008

JANUARY 5, 2009

FEBRUARY 2, 2009

MARCH 2, 2009

APRIL 6, 2009

MAY 4, 2009

JUNE 1, 2009

JULY 6, 2009

AUGUST 3, 2009

SEPTEMBER 8, 2009

OCTOBER 5, 2009

NOVEMBER 2, 2009

DECEMBER 7, 2009

BOARD OF ADJUSTMENT HEARING (2nd THURSDAY)

JANUARY 8, 2009

FEBRUARY 12, 2009

MARCH 12, 2009

APRIL 9, 2009

MAY 14, 2009

JUNE 11, 2009

JULY 9, 2009

AUGUST 13, 2009

SEPTEMBER 10, 2009

OCTOBER 8, 2009

NOVEMBER 12, 2009

DECEMBER 10, 2009

JANUARY 14, 2010

APPLICATION FORM
COUNTY VARIANCE

The undersigned as owner(s) of the following described property hereby request a Variance from the terms of the City of Billings-Yellowstone County Unified Zoning Regulations.

TAX ID # _____ **COUNTY COMMISSIONER DISTRICT #** _____

Legal Description of Property: _____

Address or General Location (If unknown, contact County Public Works): _____

Zoning Classification: _____

Size of Parcel (Area & Dimensions): _____

Covenants or Deed Restrictions on Property: Yes _____ No _____

 If yes, please attach to application

Variance Requested: _____

Facts of Hardship: _____

*** Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): _____

 (Recorded Owner)

 (Address)

 (Phone Number)

 (email)

Agent(s): _____

 (Name)

 (Address)

 (Phone Number)

 (email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Variance. Also, I attest that all the information presented herein is factual and correct.

Signature: _____ Date: _____

(Recorded Owner)